

EXHIBIT B

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION

MONTOYAE DONTAE SHARPE,)
)
 Plaintiff,)
)
v.)
)
RICKY L. BEST, JEFFREY D.)
SHROCK, CITY OF GREENVILLE,)
N.C., and CAROLYN MELVIN,)
)
 Defendants.)

Docket No.
4:21-CV-00185-BO

THURSDAY, OCTOBER 31, 2024
TRANSCRIPT OF MOTION FOR SUMMARY JUDGEMENT
BEFORE THE HONORABLE TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

APPEARANCES:

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Official Court Reporter
United States District Court
Raleigh, North Carolina
Stenotype with computer-aided transcription

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15:02:32 1 I understand that might be a material fact in dispute,
15:02:35 2 so we did not move on that. But for the three claims we
15:02:38 3 did discuss, we believe that she is entitled to summary
15:02:42 4 judgment on those.

15:02:42 5 THE COURT: Well, the claims of qualified
15:02:44 6 immunity take center stage right now at this point in
15:02:49 7 the proceedings, don't they? Because if you are -- have
15:02:54 8 qualified immunity, then you don't go to trial.

15:02:57 9 MR. ELLIS: That's correct.

15:02:58 10 THE COURT: If you don't have qualified
15:02:59 11 immunity, then you can appeal it.

15:03:03 12 MR. ELLIS: That's correct.

15:03:05 13 THE COURT: So no matter what the Court does
15:03:09 14 with qualified immunity, it will control the rest of the
15:03:12 15 case.

15:03:14 16 MR. ELLIS: Yes, sir. And again, all of the
15:03:15 17 things we have gone through, we think, first of all, go
15:03:18 18 to establish that there was no constitutional right
15:03:22 19 violated. And then, obviously, as you know, qualified
15:03:25 20 immunity says, well, if there is a violation, then it
15:03:28 21 has to have been a right clearly established at that
15:03:31 22 time. We've addressed that in the brief and explained
15:03:34 23 why. Again, there was no violation. But should the
15:03:37 24 Court conclude there was -- and I think you can go in
15:03:40 25 either order in that analysis -- that, again, qualified

15:03:43 1 immunity would bar the claims against Melvin.

15:03:47 2 THE COURT: So as a practical matter, the
15:03:49 3 case isn't going to be heard, irrespective of the other
15:03:54 4 objections or motions, until it comes back from the
15:03:57 5 Fourth Circuit.

15:03:58 6 MR. ELLIS: Judge, procedurally, the case
15:04:00 7 would certainly be in a posture to be presented to
15:04:03 8 Richmond for consideration of qualified immunity. Yes,
15:04:06 9 sir.

15:04:07 10 THE COURT: Yeah.

15:04:09 11 MR. RUDOLPH: Can I disagree with that, Your
15:04:11 12 Honor?

15:04:11 13 THE COURT: How are you going to get around
15:04:13 14 an appeal on qualified immunity if you prevail?

15:04:16 15 MR. RUDOLPH: Because the -- there are no
15:04:19 16 disputes of fact or disputes of law. There is -- it is
15:04:22 17 absolutely clear that each of these constitutional
15:04:26 18 rights was well established, clearly established in
15:04:30 19 1994.

15:04:31 20 THE COURT: And if there's an order to that
15:04:32 21 effect, they'll appeal it, and they have the right to
15:04:35 22 appeal qualified immunity.

15:04:37 23 MR. RUDOLPH: They have a right to appeal.
15:04:38 24 We have a right to move to dismiss the appeal. If
15:04:41 25 those -- they can't delay this case more by a frivolous